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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 Michael Krause,

12 Petitioner,

13 v.

14 Tara Krause,

15 Respondent.
16

No. 1:21-cv-01706-KJM-SAB

ORDER

17
18 Respondent Tara Krause moves for an award of attorneys' fees and costs in this matter.
19 As explained below, the court **grants** the motion but **decreases** the award.

20 **I. BACKGROUND**

21 Another judge in this district explained the background of this case in previous orders, and
22 this court incorporates those discussions here without repeating them. *See generally* Petition,
23 ECF No.1; Order (March 16, 2023), ECF 109; Order (April 3, 2023), ECF 114. By way of brief
24 summary, petitioner Michael Krause, a Lieutenant Colonel of the United States Air Force, sought
25 custody of his children he shares with respondent Tara Krause based on the Convention on the
26 Civil Aspects of International Child Abduction after respondent moved their children from
27 Germany to California without petitioner's consent. Pet. at 2–3. As part of this case and in
28 preparation for an upcoming trial the parties were scheduled to appear for an evidentiary hearing

1 regarding petitioner's Motion in Limine on May 18, 2022, at 10:00 a.m. *See* Motion (May 11,
2 2022), ECF No. 45; Minutes (May 18, 2022), ECF No. 54. Based on petitioner's conduct and his
3 counsel's objection to a continuance in relation to the May 18 evidentiary hearing, respondent
4 filed a motion for sanctions on June 1, 2022. *See* Motion (June 1, 2022), ECF No. 79. As part of
5 her motion, respondent also sought subpoenas to procure the testimony of Lieutenant Colonel
6 Mikita Brown. *Id.* at 10. Following a sanctions evidentiary hearing on September 30, 2022, the
7 court found petitioner extended the proceedings in this case "unreasonably and vexatiously" by
8 refusing to continue the May 18, 2022 hearing despite personal knowledge of a location
9 reassignment which directly impacted the relief he was seeking. *See* Order (March 16, 2023) at
10 45–47. Col. Brown ultimately testified at the sanctions evidentiary hearing but the judge found
11 her testimony to support petitioner's assertion about the timeline of events and that petitioner's
12 request to relocate as a result of the child custody claims was not guaranteed. *Id.* at 45. On
13 March 16, 2023, the court granted respondent's motion, and ordered sanctions against petitioner
14 for "attorneys' fees, costs, and expenses, incurred after the May 18, 2022 hearing was held,
15 including for those incurred in relation to the parties' sanctions motions"; the court relied on
16 28 U.S.C. § 1927 and the district court's inherent authority to impose sanctions. *Id.* at 47. The
17 court found sanctions under Federal Rule of Civil Procedure 11 were not appropriate, however.
18 *Id.* at 41–42.

19 Respondent then filed the pending motion seeking attorneys' fees and costs on April 14,
20 2023. *See* Motion (April 14, 2023), ECF No. 117. Respondent's seeks \$65,112.25, which she
21 claims is reasonable under both a "lodestar" analysis based on hourly rates, the time devoted to
22 the case, and petitioner's sanctionable conduct in relation to the May 18, 2022 hearing. *Id.* The
23 motion is fully briefed. *See generally* Opp'n, ECF No. 119; Reply, ECF No. 120. The court at its
24 discretion has determined a hearing is not necessary and submits the matter based on the parties'
25 briefs. L.R. Ed. Cal. 230(g).

26 II. LEGAL STANDARD

27 The "basic point of reference when considering the award of attorney's fees is the bedrock
28 principle known as the American Rule: Each litigant pays his own attorney's fees, win or lose,

1 unless a statute or contract provides otherwise.” *Baker Botts L.L.P. v. ASARCO LLC*,
 2 576 U.S. 121, 126 (2015) (quoting *Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 252–
 3 53 (2010)). However, courts may depart from the American Rule based on “specific and explicit
 4 provisions for the allowance of attorneys’ fees under selected statutes.” *Id.* (internal citations
 5 omitted). Federal courts have the inherent power to “assess attorney’s fees against counsel”
 6 despite the American Rule generally prohibiting fee shifting. *Chambers v. NASCO, Inc.*,
 7 501 U.S. 32, 45 (1991).

8 Calculating an award of attorneys’ fees is performed according to a standard of
 9 “reasonableness.” *Jadwin v. Cnty. of Kern*, 767 F. Supp. 2d 1069, 1099 (E.D. Cal. 2011). A
 10 determination of reasonableness generally involves a two-step process: (1) calculating the
 11 “lodestar figure” by multiplying the number of hours reasonably expended on litigation by the
 12 reasonable hourly rates, and (2) adjusting the “lodestar figure” based on a consideration of other
 13 factors “including, among other things, the time and labor required; the novelty and difficulty of
 14 the questions involved; the skill requisite to perform the legal service properly; the preclusion of
 15 other employment by the attorney due to acceptance of the case; and whether the fee is fixed or
 16 contingent.” *Id.* at 1099–1100. Not all factors need to be considered in determining a
 17 “reasonable” award. *Id.* at 1100.

18 Federal Rule of Civil Procedure 54(d)(1) allows for an award of costs to a prevailing party, in
 19 addition to attorneys’ fees, as respondent requests here. *See* Fed. R. Civ. P. 54(d)(1).

20 **III. ANALYSIS**

21 Respondent argues the requested award should be approved in line with this court’s order
 22 granting sanctions, and the award is reasonable under a “lodestar” analysis. Petitioner contends
 23 the requested award should be denied because: (1) the work related to seeking sanctions under
 24 Rule 11 should be excluded; (2) the fees and costs related to the subpoenas of Col. Brown are
 25 excessive and unnecessary; (3) many of the fees and costs generated do not have a “but for”
 26 causal connection to petitioner’s sanctionable conduct; and (4) the sanctions do not clearly
 27 allocate liability between petitioner and his attorneys. The court analyzes each of these
 28 arguments in turn.

A. Lodestar Analysis

1. Reasonable Hourly Rates

Courts often evaluate proposed hourly rates by reviewing the rates that other judges in the same district have used in similar cases. *See, e.g., Moreno v. City of Sacramento*, 534 F.3d 1106, 1115 (9th Cir. 2008). Judges within this district have approved a relatively wide range of hourly rates in recent years, depending on the type of case and its complexity. *See, e.g., Goodson v. County of Plumas*, No. 18-03105, 2024 WL 99847, at *3 (E.D. Cal. Jan. 9, 2024) (collecting cases); *Diaz v. United Parcel Serv., Inc.*, No. 22-00246, 2023 WL 8622325, at *17 (E.D. Cal. Dec. 13, 2023) (same). At the higher end of that spectrum, courts have awarded fees based on hourly rates between \$600 and \$700 per hour for attorneys with thirty years' experience or more who represent clients in complex civil cases. *See, e.g., Anderson v. Safe Streets USA, LLC*, No. 18-00323, 2024 WL 4826446, at *3 (E.D. Cal. Nov. 19, 2024); *Goodson*, 2024 WL 99847, at *4; *Diaz*, 2023 WL 8622325, at *17; *Cooks v. TNG GP*, No. 16- 01160, 2021 WL 5139613, at *6 (E.D. Cal. Nov. 4, 2021). Courts commonly approve rates between \$500 and \$600 per hour in complex civil cases for attorneys with multiple decades' experience, but hourly rates between \$400 and \$500 are more common. *See, e.g., Goodson*, 2024 WL 99847, at *4; *Diaz*, 2023 WL 8622325, at *17; *Cooks*, 2021 WL 5139613, at *6. Attorneys with less than ten years' experience typically are awarded fees based on hourly rates between \$200 and \$400. *See id.* Paralegals are reasonably compensated between \$100 and \$250 per hour within this district, depending on experience. *See, e.g., Mostajo v. Nationwide Mut. Ins. Co.*, No. 17-00350, 2023 WL 2918657, at *11 (E.D. Cal. Apr. 12, 2023); *Rosenof v. Kijakazi*, No. 20-01491, 2022 WL 2442235, at *3 (E.D. Cal. July 5, 2022).

Here, two attorneys and two paralegals devoted time to respondent's case. Motion (April 14, 2023) at 2. A list showing all fees requested, including the proposed rates for each person, is shown in the declaration of respondent's lead attorney, Drexwell M. Jones. Jones Decl., ECF No. 117-1. For the attorneys, who both have multiple decades of experience practicing law in California, respondent proposes hourly rates between \$400 and \$425. *Id.* ¶¶ 9–10. For the paralegals, respondent proposes hourly rates of \$175. *Id.* ¶¶ 11–12.

1 Having reviewed these rates and the details of the case, the court finds the proposed
 2 hourly rates are reasonable given the years of litigation between the parties involving complex
 3 matters of both international child custody and justifiable need to research legal issues related to
 4 the sanctionable conduct, and the court's ancillary jurisdiction to resolve attorneys' fees even
 5 after the primary child custody issues were resolved in 2023. *See* Order (April 3, 2023), ECF
 6 No. 114.

7 **2. Reasonable Hours Worked**

8 On March 16, 2023, petitioner was ordered to pay "attorneys' fees, costs, and expenses,
 9 incurred after the May 18, 2022 hearing, as a sanction. Order (March 16, 2023) at 47.
 10 Notwithstanding minor issues addressed below, respondent's counsel correctly limits their request
 11 for fees and costs spent representing respondent after the scheduled May 18, 2022 hearing.

12 Specifically, respondent's counsel has identified the tasks they performed for respondent's
 13 case after May 18, 2022, and request compensation for the time they spent on these tasks and any
 14 related costs. These tasks included, for example, researching and drafting respondent's motion
 15 for sanctions, preparing for and appearing at numerous court hearings, and repeatedly
 16 communicating with the United States Air Force regarding witness availability. *See generally*
 17 Jones Decl. Counsel also provides a generalized table of how they allocated their time between
 18 and among the various persons involved. In total, these tasks represented approximately 160
 19 hours of work allocated to respondent's representation after the May 18, 2022 hearing. A list
 20 detailing the number of hours billed by each person appears on pages four through thirty of
 21 Jones's declaration. *Id.*

22 Having reviewed the record, the court finds the proposed hours were well within the
 23 bounds of what was reasonable in this matter. *Id.* ¶¶ 9–12. Counsel for respondent litigated
 24 vigorously on behalf of their client over a period of approximately a year and a half. Under this
 25 Circuit's precedent, the court hesitates to second-guess the judgment of counsel in the allocation
 26 of their time. *Moreno* 534 F.3d at 1112 (advising district courts to "defer to the winning lawyer's
 27 professional judgment as to how much time . . . was required").

Respondent multiplied the rate for each position by the number of hours worked by each position—a combined total of 178.5 hours—to create a total lodestar amount of \$62,815.00. Jones Decl. ¶¶ 9–13. Respondent also requests \$2,297.25 in costs incurred after May 18, 2022. *Id.* ¶ 15. The lodestar fee combined with respondent’s court costs results in a total amount requested of \$65,112.25. The court finds this award is justified given the complexity of this litigation and petitioner’s sanctionable conduct, even after taking account of the prior sanctions award.

B. Rule 11 Costs

Petitioner argues that any fees respondent incurred in seeking sanctions under Rule 11 should be excluded from any award given the court previously found sanctions were not justified under Rule 11. Respondent argues in response their labeling billing entries for a “Rule 11 motion” is a general description of their work on the motion for sanctions, which contained other bases for the awarded sanctions. Reply at 2.

District courts may reject fees for unsuccessful claims that are “unrelated to” any successful claims. *L.H. v. Schwarzenegger*, 645 F. Supp. 2d 888, 897 (E.D. Cal. 2009). However, a prevailing party may recover fees “for aspects of the litigation for which it was unsuccessful.” *Id.* “Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court’s rejection of or failure to reach certain grounds is not sufficient reason for reducing a fee.” *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983).

Here, respondent’s motion sought sanctions under Rule 11, 28 U.S.C. § 1927, and the district court’s inherent authority to impose sanctions. *See generally* Motion (June 1, 2022); ECF No. 79. As noted above, the court determined petitioner’s conduct was not sanctionable under Rule 11. Order (March 16, 2023) at 42. The conduct, however, was sanctionable under both 28 U.S.C. § 1927 and the district court’s inherent authority to impose sanctions. *Id.* at 47. So even if not successful on all the grounds argued, respondent’s motion achieved the desired outcome of seeking sanctions against petitioner and the court ordered sanctions in the form of any fees, costs, and expenses “incurred in relation to the parties’ sanctions motions.” *Id.*

1 The court rejects petitioner's arguments and finds that any fees related to the motion for
2 sanctions may be awarded to respondent, even if they related to arguments based on Rule 11.

3 **C. Subpoena Costs**

4 Petitioner also argues the costs related to the subpoenas of Col. Brown should not be
5 awarded because the fees are both unnecessary and excessive, and because Brown's testimony
6 did not support respondent's arguments for sanctions. Respondent argues the costs were
7 necessary in light of petitioner's refusal to make Col. Brown available for respondent despite
8 having ready access to her.

9 Petitioner's sanctionable conduct was due to his request to move forward with the
10 May 18, 2022 hearing despite his knowing at the time that he would be reassigned to a different
11 location, leading to an earlier dismissal of the case. *Id.* at 46–47. Because Col. Brown's
12 testimony is connected to petitioner's sanctionable conduct, respondent's efforts to speak with
13 Brown regarding her testimony falls within the scope of the work reasonably required to seek
14 sanctions. For example, respondent's records indicate she is seeking only the costs related to Col.
15 Brown generated after May 18, following the period of time for which the court previously
16 awarded sanctions. *Id.* at 47; Jones Decl. at 5–11. While respondent's counsel spent a significant
17 amount of time attempting to communicate with Brown, the court here as well declines to second-
18 guess counsel's judgment in allocating their time. *Moreno*, 534 F.3d at 1112.

19 In sum, the court rejects petitioner's arguments and finds that any fees related to speaking
20 with Brown after the May 18, 2022 hearing should be awarded to respondent.

21 **D. Relationship Between Fees & Sanctions**

22 Petitioner argues many of respondent's fees should not be included in an award because
23 the fees are not properly identified as being related to petitioner's sanctionable conduct. He
24 provides a list of particular fees to which he objects in Exhibit 1 of his opposition. *See generally*
25 ECF 119-1. Respondent argues she is entitled to the fees because the fees are causally connected
26 to, and therefore a result of, petitioner's sanctionable conduct after the May 18, 2022 hearing.

27 A party seeking attorneys' fees based on another party's sanctionable misconduct may
28 recover "only the portion of his fees that he would not have paid for but for the misconduct."

1 *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 109 (2017) (internal quotations omitted).
2 These fees are designed to be compensatory in nature rather than punitive, and may not be
3 granted over and above what is needed to redress a party for their losses. *Id.* at 108. Courts may
4 decide that a particular category of expenses was “incurred solely because of a litigant’s bad-faith
5 conduct” and have wide discretion in making this decision. *Id.* at 110.

6 Fee applicants bear the burden of “documenting the appropriate hours expended in the
7 litigation and must submit evidence in support of those hours worked.” *Jadwin*, 767 F. Supp. 2d.
8 at 1100. “The party opposing the fee application has a burden of rebuttal that requires submission
9 of evidence to the district court challenging the accuracy and reasonableness of the hours charged
10 or the facts asserted by the prevailing party.” *Id.* The opposing party must “specifically identify
11 defects or deficiencies in the hours requested.” *Cotton v. City of Eureka, Cal.*, 889 F. Supp. 2d
12 1154, 1776 (N.D. Cal. 2012).

13 Here, respondent’s fees and costs made after May 18, 2022 would not have been incurred
14 but for petitioner’s decision to move forward with this case. Petitioner’s sanctionable conduct
15 involved a wrongful continuance of the child custody case after the May 18, 2022 hearing going
16 forward despite direct knowledge of his locational reassignment’s impact on the case, and that a
17 continuation would “require the Respondent to prepare and expend significant resources.” Order
18 (March 16, 2023) at 47. Thus, respondent’s time and resources spent litigating after May 18,
19 2022, when the case would otherwise have been dismissed based on the information that would
20 have been revealed at the evidentiary hearing, are directly connected to petitioner’s sanctionable
21 conduct. An award for these fees will compensate respondent for time and money that was
22 effectively wasted.

23 Respondent’s billing entries contain brief summaries of the type of work performed on
24 respondent’s case, the amount of time spent on each task, and the costs associated with those
25 tasks based on counsel’s billing rates. Counsel’s entries also show the entries were related to
26 their representation of respondent given that the entries were taken from the billing invoices sent
27 to respondent’s email. *See generally* Jones Decl. After reviewing counsel’s records, the court

1 finds the documentation is appropriate to support the hours spent and work done on this case, and
2 respondent's entitlement to the fees and costs requested. *Id.* at 5–30.

3 Part of petitioner's opposition focuses on the fees generated by respondent's counsel on
4 May 18, 2022. Respondent's declaration indicates that \$3,067.50 was generated in fees that day.
5 Jones Decl. at 5–6. Respondent argues this work was performed after the May 18, 2022 hearing
6 was to have gone forward. Respondent's billing entries contain no mention of the specific times
7 on May 18, 2022 the contested fees were generated, only details on the hours spent and a brief
8 statement regarding the type of work done that day. District courts do have the ability to reduce
9 fees on the grounds of inadequate documentation. *Fischer v. SJB–P.D. Inc.*, 214 F.3d 1115, 1121
10 (9th Cir. 2000). However, attorneys are not required to “record in great detail how each minute
11 of his time was expended.” *Hensley*, 461 U.S. at 433. So long as attorneys list their hours and
12 “identify the general subject matter of his time expenditures,” they will satisfy their burden of
13 properly documenting their requested fees. *Davis v. City & Cnty. of San Francisco*,
14 976 F.2d 1536, 1542 (9th Cir. 1992). Even if respondent's counsel could have supplemented
15 their documentation with additional information that included the equivalent of timestamps for
16 their billing entries, they have still listed their hours and provided general descriptions regarding
17 how they spent their time on May 18, 2022. Respondent's counsel has therefore satisfied their
18 burden of demonstrating their entitlement to these specific fees.

19 The court rejects petitioner's arguments and finds respondent is entitled to their attorneys'
20 fees and costs generated in relation to petitioner's sanctionable conduct, beginning immediately
21 following the aborted May 18, 2022 hearing.

22 **E. Sanctions Liability**

23 Petitioner also argues that sanctions are not appropriate because neither the prior order
24 granting sanctions nor respondent's motion indicate which of petitioner's attorneys, if any, are
25 subject to the sanctions. Opp'n at 8. Respondent argues the court may assign responsibility for
26 the fees in this order. Response, ECF No. 116 at 3–4.

27 Sanctions granted under 28 U.S.C. § 1927 must be directed towards specific attorneys,
28 their clients, or both. *Kaass Law v. Wells Fargo Bank, N.A.*, 799 F.3d 1290, 1293 (9th Cir. 2015).

1 However, district courts may assign joint and several liability for sanctions granted under the
2 court's inherent authority when "[n]othing in the record indicates that as between client and
3 counsel, one should be regarded as less blameworthy than the other." *Kendrick v. Zanides*,
4 609 F. Supp. 1162, 1173 (N.D. Cal. 1985).

5 While the court in its prior order deemed petitioner's sanctions proper under 28 U.S.C.
6 § 1927, sanctions also were proper under the inherent authority of the district court "as an
7 alternative or additional basis." Order (March 16, 2023) at 47. The court determined that both
8 "petitioner and counsel were put on a preliminary notice" regarding the locational reassignment
9 before the May 18, 2022 hearing. *Id.* The court also determined that both "petitioner and counsel
10 proceeded in bad faith" by refusing to continue with the May 18, 2022 hearing. *Id.* at 46. No
11 facts otherwise indicate that any particular person, taking account of the conduct of petitioner and
12 any of his attorneys, is more or less blameworthy than another for the sanctionable conduct given
13 that petitioner and counsel acted in concert as relevant here.

14 The court rejects petitioner's arguments and finds that sanctions can be levied jointly and
15 severally against petitioner and his attorneys.

16 **F. Concessions & Adjustments**

17 In addition to the calculations discussed above, the court notes a few adjustments that
18 should be made to respondent's award.

19 Respondent concedes that they mistakenly requested \$360.00 in a May 25, 2022 relied on
20 in their motion. Reply at 3. Therefore, the amount of \$360.00 will be deducted from
21 respondent's requested award.

22 Respondent's declaration also contains multiple costs generated before the May 18, 2022
23 hearing. Jones Decl. at 9. These costs, which total \$592.74, will also be deducted from
24 respondent's requested award. *Id.*

25 As noted above, the starting point for respondent's request is \$65,112.25. Subtracting the
26 adjustments identified here results in an slightly reduced award of \$64,159.51. The court grants
27 the request for attorney's fees and costs in this reduced amount.

1 **IV. CONCLUSION**

2 For the reasons above, the **court grants the respondent's motion for attorneys' fees**
3 **and costs**, with minor reductions, yielding a final award of \$64,159.51.

4 This order resolves ECF No. 117.

5 IT IS SO ORDERED.

6 DATED: April 22, 2025.



SENIOR UNITED STATES DISTRICT JUDGE